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**From:** Schwab, Justin [schwab.justin@epa.gov]  
**Sent:** 2/28/2017 5:32:13 PM  
**To:** Williamson, Timothy [Williamson.Tim@epa.gov]  
**CC:** Minoli, Kevin [Minoli.Kevin@epa.gov]; Dierker, Carl [Dierker.Carl@epa.gov]  
**Subject:** Re: ME WQS Petition Report

Thanks, Tim.

Sent from my iPhone

On Feb 28, 2017, at 11:39 AM, Williamson, Timothy <Williamson.Tim@epa.gov> wrote:

Hi Kevin and Justin,

Carl mentioned that you would like a heads-up on items the Region might be reporting to the Administrator. Since you could not be at the start of our senior staff meeting today when I reported out on this, we thought you should see this. I've highlighted the "news" part below.

Best, Tim

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**From:** Williamson, Timothy  
**Sent:** Tuesday, February 28, 2017 10:57 AM  
**To:** Szaro, Deb <Szaro.Deb@epa.gov>; Moraff, Kenneth <Moraff.Ken@epa.gov>  
**Cc:** Dierker, Carl <Dierker.Carl@epa.gov>; Johnson, Arthur <Johnson.Arthur@epa.gov>; Hamjian, Lynne <Hamjian.Lynne@epa.gov>; Knapp, Michael <Knapp.Michael@epa.gov>; Ann Williams <Williams.Ann@epa.gov>; Abele, Ralph <abele.ralph@epa.gov>; Michael Stover <Stover.Michael@epa.gov>; Voorhees, Jeanne <voorhees.jeanne@epa.gov>  
**Subject:** ME WQS Petition Report

Hi Deb and Ken,

Per your request today at the OD's meeting, please find below a brief report out on the petition we got concerning ME WQS. As you suggested, I've included a longer background piece in case there are follow-up questions, which is drawn from the summary Mike Knapp and others put together for the RA briefing book.

Hope this format works for you.

Tim

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On February 27, Governor LePage of Maine petitioned the Administrator to partially withdraw a set of decisions EPA made in 2015 approving and disapproving state water quality standards, including standards that apply in the waters of the federally recognized Indian tribes in Maine. The petition also asks EPA to repeal federal water quality standards the Agency promulgated in December 2016 to address the disapprovals included in EPA's 2015 decisions. The petition is based on arguments presented to EPA in the rulemaking process for the federal water quality standards.

## Background

On December 19, 2016, the Administrator promulgated 96 federal human health criteria (HHC) for tribal waters in Maine. These WQS took effect on January 18, 2017. They address EPA's 2015 disapprovals of Maine's corresponding WQS and the Administrator's 2016 necessity determination that many of Maine's human health WQS do not protect the designated use of sustenance fishing. Prompted by a lawsuit brought by Maine in 2014, EPA concluded that the federal and state statutes that settled land claims by the four federally recognized Indian tribes in Maine grant Maine the authority to establish WQS for waters in Indian lands. This is a unique arrangement where Congress authorized the state to regulate the environment in tribal lands. EPA and DOI also concluded that these settlement acts also provide for these tribes to fish for their individual sustenance. EPA reviewed all of Maine's WQS, and in five decisions issued in 2015 and 2016, EPA approved most of the WQS for waters in Indian lands, but disapproved a number of them, including most HHC. (Maine is not asking EPA to withdraw any of the 2016 decisions, since they all approved state WQS.) Region 1 discussed the disapproval and promulgation process with Maine on several occasions as well as with the Maine Congressional delegation. Maine sued EPA under the CWA and APA regarding the February 2015 action. On

November 18th, the court granted EPA's motion to dismiss Maine's Clean Water Act mandatory duty claim. In December 2016, the Penobscot Indian Nation and Houlton Band of Maliseets successfully moved to join the litigation as intervenors. Maine's opening merits brief is due May 15, 2017. EPA's opening merits brief is due August 28, 2017.